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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA, ) No. CR 05-00812 RMW  
13 Plaintiff, ) PARTIES' JOINT REQUEST TO  
14 ) CONTINUE TRIAL DATE; []  
15 v. ) ORDER VACATING TRIAL DATE AND  
16 SUIBIN ZHANG, ) SETTING HEARING  
17 Defendant. ) Date: June 4, 2009  
18 ) Time: 2:00 p.m.  
19 ) Before The Honorable Ronald M. Whyte

20 The parties jointly ask the Court to continue the trial, currently scheduled to begin on  
21 July 6, 2009, to a date in September to be determined. The government initially suggested the  
22 continuance to defense counsel, based on personal reasons (needing to schedule a visit during the  
23 week of June 29, 2009 – *i.e.*, the week before trial was scheduled to begin – to spend time with a  
24 family member experiencing health problems). Defense counsel graciously agreed, and also  
25 noted that he could use the additional time for effective preparation. In addition, government  
26 counsel was recently promoted to chief of the San Jose Branch, which is no big deal in and of  
27 itself, but does mean that it would be preferable if he were not in trial during the upcoming  
28 triennial Department of Justice Evaluation and Review Staff (EARS) audit, also scheduled for

**REQUEST TO CONTINUE TRIAL DATE;  
[] ORDER SETTING HEARING**

1 the week of July 6, 2009.

2 For the foregoing reasons, the parties jointly request that the currently-scheduled trial  
3 date be vacated and that a new date be set at the hearing on June 4, 2009, at 2:00 p.m., and  
4 further agree that the time between July 6<sup>th</sup> until the new trial date may be excluded from the  
5 speedy trial clock for the reasons set forth above (continuity of counsel for the government,  
6 effective preparation for the defense), as well as based on the Court's previous finding of  
7 complexity.

8 SO STIPULATED:

9 DATED: 5-27-09

JOSEPH P. RUSSONIELLO  
United States Attorney

11 / s /

12 DAVID R. CALLAWAY  
13 Assistant United States Attorney  
Counsel for United States

14 DATED: 5-27-09

BARRY J. PORTMAN  
Federal Public Defender

16 / s /

17 MANUEL ARAUJO  
18 Assistant Federal Public Defender  
Counsel for Suabin Zhang

20 **ORDER**

21 For the reasons set forth above, and good cause appearing,

22 IT IS HEREBY ORDERED that the trial date of the captioned case, currently scheduled  
23 to begin on July 6, 2009, is VACATED. A new date will be set at the hearing on June 4, 2009,  
24 at 2:00 p.m., before The Honorable Ronald M. Whyte. The Court defers any findings regarding  
25 excludable time until the hearing.

26 8/12/09

*Ronald M. Whyte*  
27 RONALD M. WHYTE  
28 United States District Judge